

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "C" BENCH: NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA Nos.3283/Del/2023  
[Assessment Years : 2015-16]**

DCIT, Central Circle-16, Jhandewala Extn. Delhi -110055.	vs	Sahil Kohli, 59/15, Ramjas Road, Karol Bagh, New Delhi-110005 <b>PAN-CCXPK2550C</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>

**C.O.No.-164 & 165/Del/2023  
[In ITA No. 3283 & 3288/Del/2023]  
[Assessment Year : 2015-16 & 2016-17]**

Sahil Kohli, 59/15, Ramjas Road, Karol Bagh, New Delhi- 110005 <b>PAN-CCXPK2550C</b>	vs	DCIT, Central Circle-16, Jhandewala Extn. Delhi - 110055.
<b>APPELLANT</b>		<b>RESPONDENT</b>

**ITA Nos. 452 & 453/Del/2024  
[Assessment Years : 2017-18 & 2019-20]**

Sahil Kohli, 59/15, Ramjas Road, Karol Bagh, New Delhi-110005 <b>PAN-CCXPK2550C</b>	vs	DCIT, Central Circle-16, Jhandewala Extn. Delhi -110055.
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Revenue by</b>	Sh. Dayainder Singh Sidhu, CIT DR
<b>Assessee by</b>	Shri Yogesh Jangia Adv., Sh. Manoj Gupta and Sh. Kundan D. Wahi, CA's
<b>Date of Hearing</b>	09.10.2025
<b>Date of Pronouncement</b>	17.10.2025

**ORDER****PER BENCH :**

The captioned appeals are filed by the revenue against the respective orders passed by Ld. Commissioner of Income Tax (A)-28, Delhi [“Ld. CIT(A)”] passed u/s 250 of the Income Tax Act, 1961 [“the Act”] arising from the respective assessment orders tabulated as under. Assessee also filed Cross Objections for various assessment years, which are tabulated as under:-

<b>Sr. Nos.</b>	<b>ITA Nos.</b>	<b>Co No.</b>	<b>Asstt. Year</b>	<b>Section under which Assessment orders passed</b>
1.	<b>3283/Del/2023</b>	164/Del/2023	2015-16	153A r.w.s. 143(3) of the Income Tax Act, 1961.
2	-	165/Del/2023 (In ITA No.3288.Del.2023)	2016-17	-do-
3.	<b>452/Del/2024</b>	-	2017-18	-do-
4.	<b>453/Del/2024</b>	-	2019-20	-do-

2. At the time of hearing, it was stated that the issues involved in all the appeals filed by the revenue and cross objections raised by the assessee for captioned assessment years are common, interlinked and arising from the search action on the assessee and other persons. Hence, all these cases have been heard together and accordingly, adjudicated by this common order.

3. First we take appeal of the revenue assessee in **ITA No.3283/Del/2023** and cross objections filed by the assessee in **CO No. 164/Del/2023** both for Assessment year 2015-16.

4. Brief facts of the case are that a search and seizure operation was carried out by the Investigation Wing, Meerut in the case of Kohli Tent group of cases on 03.05.2018 and assessee was also part of the same. Accordingly, proceedings u/s 153A of the Act were initiated in the case of assessee by issued of notice u/s 153A of the Act. In response thereto, assessee filed return of income declaring same income at Rs. 6,57,040/-. Thereafter, notices u/s 143(2) and 142(1) with questionnaire were issued and served upon the assessee which were duly complied with by the assessee and detailed submissions were filed from time to time. The AO after considering the submission made and the material available before him, assessed the income at INR 2,78,25,590/- in the order passed u/s 153A/143(3) of the Act.

5. Against the order of AO, the assessee preferred appeal before Ld. CIT(A), who after considering the submissions of the assessee, partly allowed the appeal of the assessee.

6. Aggrieved by the order of Ld. CIT(A), the revenue preferred appeal before the Tribunal by taking following grounds of appeals:-

1. *“Whether on facts of the case and in law, the Ld. CIT(A) has erred in restricting the addition to Rs. 21,26,242/- (@ 10% of Rs. 2,12,62,420/-), when the assessee has failed to produce any documents to refute suppressed income & unaccounted business receipts?”*
2. *Whether on facts of the case and in law, the Ld.CIT(A) has erred in not upholding the entire addition amounting to Rs. 2,69,43,551/- (Rs.1,54,76,876/- Rs. 1,01,66,675/- + Rs. 13,00,000/-), as the assessee could not produce any documents regarding suppressed income, unaccounted business receipts and related expenditures incurred on earning these above receipts?”*
3. *Whether on facts of the case and in law, the Ld.CIT(A) has erred in revising the Sale Suppression Factor from 3.2553 to 2.5684 as the Sale Suppression Factor has been correctly determined by the AO on the basis of seized material found during the course of search proceedings?”*
4. *Whether on facts of the case and in law, the Ld. CIT(A) is correct in estimating the unaccounted income of the assessee at 10% of total undisclosed receipts whereas no such evidence is available on record that assessee had incurred any expenditure to earn the above receipts?”*
5. (a) *Whether on facts of the case and in law, the order of the Ld. CIT(A) is erroneous and not tenable in law and on facts.*  
(b) *The appellant craves leave to add, alter or amend any/ all of the grounds of appeal before or during the course of the hearing of the appeal.”*

7. The assessee in the cross objections filed has taken following objections:

- 1) *“That in the facts and circumstances of the case and in law the Ld. CIT(Appeal) erred in upholding initiation of proceedings under section 153A of Income Tax Act and consequent upholding assessment order passed under section 153A of Act by Ld. ACIT.*
- 2) *That Ld. CIT(A) passed impugned order contrary to schematic and purposive interpretation of scheme of assessment in case of search operation under section 132 of Act or requisition under section 132A of Act.*
- 3) *That in the facts and circumstances of the case and in law, upholding of extrapolation in absence of any material justifying such action and computing income based thereon is perverse of record, arbitrary and contrary to law.*
- 4) *That in the facts and circumstances of the case and in law, Ld. CIT(A) erred in estimating total income of the Respondent at 10% of the suppressed business receipts by ignoring the fact that separate addition has been made based on documents found.*

5) That in the facts and circumstances of the case and in law, Ld. CIT(A) erred in upholding unaccounted business receipts for want of effect on total unaccounted suppressed sale because even Ld. CIT(A) upheld errors in calculation of suppression factor and revised the same due to duplicity of incriminating material relied upon by Ld. AO etc.

6) That in the facts and circumstances of the case and in law the Ld. CIT(Appeal) erred in upholding addition of Rs.75,000/- of short term capital gain on account of sale of property made by Ld. AO in absence of documentary evidence furnished by the appellant with respect to cost of improvement.

7) That in the facts and circumstances of the case and in law the Ld. CIT(Appeal) erred in upholding addition of Rs.1,50,000/-, being cash deposited in the bank account, made by Ld. AO and brought to tax under section 69A of the Act read with section 115BBE of the Act.

8) That in the facts and circumstances of the case and in law the Ld. CIT(Appeal) failed to appreciate that assessment proceedings were conducted contrary to principles of natural justice so much so that show cause notice issued was contrary to settled preposition of law.

9) That in the facts and circumstances of the case and in law the Ld. CIT(Appeal) failed to appreciate that approval accorded under section 153D of Act was not in consonance with law laid to protect arbitrariness.

10) That in the facts and circumstances of the case and in law, Ld. CIT(A) failed to appreciate that assessment framed is contrary to scheme of assessment under the Act and is self contradictory in view of the fact that Ld Assessing officer while accepting books of accounts of respondent maintained under section 145 of Act made addition based on extraneous material.

11) That the Respondent craves leave to add, alter or amend any /all of the grounds of cross objections before or during the course of hearing of the appeal.”

8. Before us, in support to cross objection No. 9 regarding validity of approval granted u/s 153D of the Act, the Ld.AR for the assessee submits that in the present case, approval was granted by Ld. Adl. CIT, Central Range-4, New Delhi vide letter dt. 25.06.2021 which is mechanical approval and common for all the six

assessment years. Ld. AR submits that Ld. Adl. CIT granted approval for AY 2014-15 to 2019-20 in terms of letter No. Addl. CIT/CR-4/ Approval-153D/2021-22/230 dated 26.06.2021 which is mechanical approval as no separate approval for each Assessment Year was given rather approval was given by a single order for various assessment years and for various assessee.

9. Ld.AR further submits that from the perusal of the approval, it could be seen that Adl. CIT while granting approval has observed that he has perused the draft assessment order and case records, without referring to any material which was considered by him such as seized material, including replies filed by the assessee with reference to the additions/ disallowance proposed in the drafts assessment order, etc. It was pointed out that the mandate of law u/s 153D is that the approval should be granted with an independent mind after considering the material on record for each assessment year in respect of each assessee separately. The reliance in this regard was placed on the order of the Hon'ble Delhi High Court in the case ***PCIT vs. Sapna Gupta (2023) 147 taxmann.com 288 (All)*** and ***PCIT vs. Shiv Kumar Nayyar (2024) 163 taxmann.com 9 (Delhi)***. Further, the ld. counsel has relied the judgement of the Hon'ble Delhi High Court in the case ***PCIT vs. Anuj Bansal (2024) 165 taxmann.com 2 (Delhi)*** and decision of the coordinate Bench of ITAT Delhi in the case ***MDLR Airlines Pvt. Ltd. vs. DCIT, dated 24.04.2024 in ITA Nos.1420 & 1421/Del/2023***, to contend that in case of mechanical approval u/s 153D of the Act, the assessment is liable to be quashed.

10. On the other hand, Ld. CIT DR for the Revenue supports the orders of lower authorities and submits that the Ld. Adl. CIT has granted approval after due consideration of the material available before him. Ld. DR had placed on record written submissions for convenience and to be fair to the attempt of ld. DR in defending the issue. We are reproducing the written submissions filed by ld. DR in the case of Kohli Tents Pvt. Ltd., a group company appeal of which is heard together, in totality:-

A. *“With regard to issue regarding Section 153D approval, it is submitted that*

1. *It is not a gainsaying that the Addl. CIT hold the concurrent jurisdiction and that the assessment is a continuous process involving administrative as well statutory roles being donned by the Addl. CIT. And it is incumbent on the approving authority to examine and monitor the assessments which can't be denied if the same is not reduced in writing at every point of time till the finalization of the assessment. The approval of the approving authority underlines that he has examined the assessment records, relevant copies of seized documents and the relevant issues arising from the material on record judiciously in independent manner by way of due application of mind. It would not be out of place to mention here that the appellant has not come out with any case that there is case of non-application of mind. The appellant has to positively prove that there is a case of non-application of mind in light of the submission that the approval u/s 153D is an administrative approval. Here, it would not be out of place to highlight that the relevant seized documents in a case are always part of the assessment records as per practice, and requirement of the work. They are not kept separately as relevant seized material is frequently referred to by the assessing officer during the course of assessment proceedings and also made part of assessment order most of the time. In fact, as per the law, seized material is considered as part of records before Assessing Officer and all such seized records, return of income, notices etc. used during an assessment proceeding when considered collectively is known as "Assessment record". Therefore, from the letter seeking approval, it is evident that the entire assessment records which included seized material was placed before the approving authority for the purpose of taking decision with regard to approval under section 153D of the Act.*

2. *In view of the same, it cannot be inferred in any manner from the letter seeking approval by the AO and the letter granting approval by the Addl. CIT that approval under section 153D of the Act was granted in mechanical manner without independent application of mind by the Addl. CIT.*

3. *Further, in search cases, an Addl. CIT is well aware about progress of the assessment proceedings, relevant issues of different assessee, nature and content of the seized material in light of the fact that the as per the CBDT guideline F. No. 286/161/2006-IT (Inv. II) dt. 22.12.2006, copy of appraisal report is shared by Investigation Wing with both that the assessing officer and Joint CIT. In fact, CBDT guideline dt. 22.12.2006 (Copy enclosed) on the subject of the search and Seizure Assessments clearly outlines such close coordination. Thus, as per the prevailing Practice and Guidelines, the approving authority has good idea of issues involved in particular case before hand i.e. much before the cases are sent to him for approval Under Section 153D of the Act. This guideline of CBDT is relevant piece of information, which throws light on the way search assessments are taken up by the filed officers. Therefore, in light of such peculiar fact of instant case, it cannot be inferred that the Addl. CIT was not in a position to independently apply his mind in judicial manner to the case of assessee on the same day.*

4. *In this regard, it is further submitted that on perusal of case laws on the issue of requirements for proper approval under section 153D, it is found that Hon'ble jurisdictional high court has emphatically held that such an issue is essentially a question of fact and has to be decided based of factual matrix of a particular case. Further, it has been held that approval cannot be reduced to a mechanical exercise and approving authority is required to apply his/her independent mind while granting such an approval. Thus, all the cases have been decided on this point by Hon'ble Tribunal and Hon'ble High court in light of peculiar facts of those cases only. Some of such peculiar facts of such cases are outlined here in under to emphasize upon distinguishing nature of facts of instant cases from those cases.:*

Case Name and Citation	Peculiar Facts of cases in mentioned in first col.	Distinguishing facts of the instant case
HIGH COURT OF DELHI in the case of PCIT vs. Anuj Bansal ITA 368/2023 Dated July 13,2023	<p>-No Assessment records were sent along with draft assessment order</p> <p>-There were infirmities in the figures of Original Return of income and Assessed income.</p> <p>-Addl. CIT did not apply his mind as he did not notice such errors/infirmities.</p>	<p>Appellant has not been able to prove that its case and facts are in alliance with the cited case.</p> <p>Further, there is nothing on the record to suggest that in the instant case of the assessee, there were some factual infirmities in the order granting approval. None of the peculiar factual aspects are present in the instant case.</p> <p>Therefore, the case of Anuj Bansal had distinguishable facts than those of instant case.</p>

HIGH COURT OF DELHI in the case of Principal Commissioner of Income-tax v. Shiv Kumar Nayyar [2024] 163 taxmann.com 9 (Delhi)	<p>The approval order failed to make any mention of the fact that the draft assessment orders were perused at all, much less perusal of the same with an independent application of mind.</p> <p>Also, in this case of Shiv Kumar Nayyar, there was no fact brought on the record by the Revenue to prove that identical issues (involving similar facts) were involved in different cases submitted for approval by the AO. It was in absence of such factual information that granting of approval for 43 cases in a single day was viewed by the Hon'ble High Court.</p>	<p>Further, in the instant case, approval is given for the case of assessee only.</p> <p>Therefore, facts of the instant case are distinguishable.</p>
ITAT NEW DELHI in the case of Seh Realtors Pvt. Ltd. v. ACIT Central Circle-8 ITA no. 2503/Del/ 2017 Dated 23.07.2024	<p>The approving authority had granted approval in 232 cases in a single day. Therefore, issue of judicious approval for such large number of cases from the angle of human limitations was an issue before Hon'ble Bench.</p>	<p>In the instant case, approval is given for the case of assessee only and that too in six cases. Therefore, facts of the instant case are distinguishable.</p>

5. Reliance is placed in the case of *Home Finders Housing Ltd. v Income-tax Officer Ward 2(3), Chennai [2018] 93 taxmann.com 371 (Madras)* wherein it was held that in case an order is passed without following a prescribed procedure, the entire proceedings would not be vitiated.

9. There is no statutory requirement to deal with the objections given by the assessee after receiving reasons for initiating proceedings under section 147 of the LT. Act. However, there is a judgement of the Hon'ble Supreme Court in *GKN Driveshafts (India) Ltd.'s cas*

*(supra) mandating such disposal of objections before passing the assessment order.*

10. *The Supreme Court in GKN Driveshafts (India) Ltd. 's (supra) made it clear that on reasons, the notice is entitled to file objections to issuance of notice and the Assessing Officer bound to dispose of the same by a speaking order. The judgment is very clear that before proceeding with the assessment proceedings, the Assessing Officer has to pass a speaking order. Therefore, the Assessing Officer is bound to pass an order and thereafter only further proceedings could be taken for passing the assessment order. It would not suffice by giving reasons to the objections in the assessment order, in view of the judgment in GKN Driveshafts (India) Ltd.'s case (supra).*

15. *The applicant has raised two contentions in this appeal.*

*(a) The assessment order passed in violation of the law laid down by the Supreme Court is void and it cannot be ratified by remitting the matter to the Assessing Officer,*

*(b) The assessment order was passed just one day prior to the period of limitation and therefore, it would not be possible to pass a fresh order after giving disposal to the objections.*

16. *It is not in dispute that there is no statutory requirement to pass an order taking into account the statement of objections filed by the assessee after receiving the reasons for invoking Section 147 of the I.T. Act. The Hon'ble Supreme Court in GKN Driveshafts (India) Ltd.'s case (supra), has given a procedural safeguard to the assessee to avoid unnecessary harassment by directing the Assessing Officer to pass a speaking order taking into account the objections for reopening the assessment under Section 147 of the I.T. Act.*

17. *The forming of opinion to proceed further by disposal of the objections need not be a detailed consideration of all the facts and law applicable. It must show application of mind to the objections raised by the notice. In case the objections are such that it would require a detailed examination of facts and application of legal provisions, taking into account the assessment order sought to be reopened, the string of violations, suppression of material particulars and transactions which would require considerable time and would be in the nature of a detailed adjudicatory process, the Assessing Officer can dispose of the objections, by giving his tentative reasons for overruling the objections.*

18. *The disposal of objections is in the value of a procedural requirement to appraise the assessee of the actual grounds which made the Assessing Officer to arrive at a prima facie satisfaction that there was escape of assessment warranting reopening the assessment proceedings. The disposal of such objection must be before the date of hearing and passing a fresh order of assessment. In case, on a consideration of the objection submitted by the assessee, the Assessing Officer is of the view that there is no ground*

*made out to proceed, he can pass an order to wind up the proceedings. It is only when a decision was taken to overrule the objections, and to proceed further with the reassessment process, the Assessing Officer is obliged to give disposal to the statement of objections submitted by the assessee.*

*20. The learned counsel for the appellant by placing reliance on an order passed by the learned Single Judge in Mrs. Jayanthi Natrajan (cited supra) submitted that the order being one made without complying with mandatory procedure, is non est in law and it cannot be given life by complying with the procedure later. In short, it is the contention that non-compliance of a prescribed procedure would nullify the order and the irregularity cannot be cured later.*

*26. We therefore make the position clear that non-compliance of the procedure indicated in the GKN Driveshafts (India) Ltd.'s case (supra) would not make the order void or non-est. Such a violation in the matter of procedure is only an irregularity which could be cured by remitting the matter to the authority.*

*Later, the Hon'ble Supreme Court also dismissed the SLP raised in the matter.*

*6. Further, reliance is also placed on the judgment of Hon'ble Kerala High Court in OP(C) No. 340 of 2019 against the order in IA 3123/2018 in OS 125/2018 of II Additional Sub Court, Ernakulam dated 23.06.2022, wherein it is held that the:*

*"5. Courts should endeavor to dispose of a case on merits rather than on default."*

*The Apex Court in the case of Improvement Trust, Ludhiyana vs Ujagar Singh & Ors on 09.06.2010 in Civil Appeal NO. 2395 of 2008 also held that:*

*"..... After all, justice can be done only when the matter is fought on merits and in accordance with law rather to dispose it of on such technicalities and that too at the threshold. Both sides had tried to argue the matter on merits but we refrain ourselves from touching the merits of the matter as that can best be done by the Executing Court which had denied an opportunity to the appellant to lead evidence and to prove the issues so formulated.*

*In our opinion, ends of justice would be met by setting aside the impugned orders and matter is emitted to the Executing Court to consider and dispose of appellant's objections filed under Order 21 Rade 90 of CPC on merits and in accordance with law, at an early date. It is pertinent to point out that unless malafides are writ large on the conduct of the party, generally as a normal I rule, delay should be condoned. In the legal arena, an attempt should always be made to allow the matter to be contested on merits rather than to throw it on such technicalities."*

*7. It is further submitted that there cannot be any presumption drawn against the approving authority with regard to application of mind merely on the ground that number of cases approved in a day were high. There*

*cannot be any threshold limit set for the same. How many cases will be considered unreasonably high and how many cases will be considered reasonable? It is submitted that every approval needs to be examined in light of its peculiar facts such as number of issue involved, nature of issue involved, modus-operandi involved, number of cases involved and inter-relationship among facts of such cases. If identical issues are involved involving same modus-operandi and cases are of same search group only, it would not be unreasonable to consider that an approving authority will be able to apply its independent mind judiciously to relatively larger number of cases in a single day. Ultimately, it boils down to factual matrix of the cases sent for approval. In the instant case, in light of the factual matrix that additions were made in different cases of the group on the same ground based on same factual position with regard to same accommodation entry provider and involving same modus-operandi, it would be justified to consider that the approving authority would have been in a position to apply his mind to all such cases sent for approval by the AO on the same day, particularly when number of such cases is not too high and facts/issues involved are in the knowledge of approving authority beforehand ie. before receiving proposal for approval.*

*8. Therefore, in view of the above discussion, it is respectfully submitted that the fact of the instant cases are significantly distinguishable from the fact all those cases where Hon'ble Courts and Hon'ble Tribunal have held approval under section 153D as a mechanical approval without due application of mind by the approving authority. Moreover, content of the approval letter clearly establishes that while granting approval, the approving authority had considered facts of the case, assessment records and seized documents and had applied his mind independently.*

*In view of the above it is respect to submitted to kindly take on record the above objections and reject the contention of the assessee on this ground and uphold the order of assessing officer.”*

11. Heard the contentions of both the parties and perused the material available on record. Before going further, we first consider the approval granted by Id. Adl. CIT, Central Range-4, New Delhi in the case of assessee which is reproduced as under:

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OFFICE OF THE  
ADDL. COMMISSIONER OF INCOME TAX,  
CENTRAL RANGE-4, NEW DELHI

Room No. 249, 2<sup>nd</sup> Floor, ARA Centre, E-2, Jhandewalan Extension, New Delhi - 110055  
Phone No. 011-23593272; E-Mail I.D.: delhi.addlciit.cen4@incometax.gov.in

F.No. Addl. CIT/C.R-4/Approval 153D/2021-22/ 299

Date: 25.06.2021

To,

The Assistant Commissioner of Income-tax,  
Central Circle - 16,  
New Delhi

Subject: Approval u/s 153D of the I.T. Act, 1961 for making assessment u/s 153A of the I.T. Act, 1961 in the case of Kohli Tents Pvt. Ltd.(PAN:-AAECK1713F) pertaining to 'Kohli Tent Group of Cases' - reg.

Please refer to your letter F.No ACIT/CC-16/153D/2021-22/167 dated 21.06.2021 whereby you have submitted draft assessment order, seeking approval u/s 153D of the I.T. Act, 1961 in the case of Kohli Tents Pvt. Ltd.(PAN:-AAECK1713F) for Assessment Years 2013-14 to 2018-19 u/s 153A/143(3) & 2019-20 u/s 143(3) r.w.s 153A of the Income Tax Act, 1961.

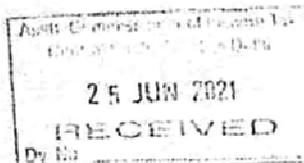
2. After perusing the draft assessment orders and case records for A.Ys. 2013-14 to 2018-19 u/s 153A/143(3) & 2019-20 u/s 143(3) r.w.s 153A of the Income Tax Act, 1961 submitted by you, approval u/s 153D for making assessment u/s 153A/143(3) is accorded as under:-

S No	AY	Section	Returned Income(in Rs.)	Assessed Income(in Rs.)
1	2013-14	153A r.w.s 143(3)	35,08,770/-	6,46,76,220/-
2	2014-15	153A r.w.s 143(3)	1,14,71,990/-	13,82,19,620/-
3	2015-16	153A r.w.s 143(3)	96,54,280/-	14,84,55,170/-
4	2016-17	153A r.w.s 143(3)	9,13,080/-	7,70,25,660/-
5	2017-18	153A r.w.s 143(3)	(-)17,99,358/-	1,04,45,710/-
6	2018-19	153A r.w.s 143(3)	(-)15,58,478/-	8,19,60,980/-
7.	2019-20	143(3)	(-)42,72,169/-	(-)36,71,670/-

3. The approval accorded by the undersigned u/s 153A/143(3) of the I.T. Act, 1961 should be mentioned in the concluding para of the draft assessment order and AO is directed to ensure that the orders are passed well before the limitation. Further, the copies of the final orders so passed to be sent to this office for records. The assessment records in all the above cases are returned herewith.

4. Further, it is also directed that no order shall be passed without "DIN" in view of the CBDT's Circular No. 19/2019 dated 14.08.2019.

Encl: As above



(YAMINI)  
Addl. Commissioner of Income Tax  
Central Range-4, New Delhi

12. The Additional CIT, Central Range while granting approval, needs to examine all the material including the assessment records, full appraisal report and seized material pertaining to each Assessment Year with reference to the addition proposed by the AO for which approval is sought and the draft assessment order and after considering all the material should accord the approval. It is further provided that approval has to be granted for each assessment year independently. From the perusal of the approval letter as reproduced above, it is seen that common approval was given for all the seven assessment years vide single order.

13. The Hon'ble Jurisdictional High Court in the case of **Shiv Kumar Nayyar** in **ITA No.285/2024 [TS-343-HC-2024-Delhi]** has held that the approval u/s 153D of the Act has to be granted for each Assessment year independently. The relevant observations of the judgement of Hon'ble High Court are as under:-

*"11. A plain reading of the aforesaid provision evinces an uncontrived position of law that the approval under Section 153D of the Act has to be granted for "each assessment year" referred to in clause (b) of sub-section (1) of Section 153A of the Act. It is beneficial to refer to the decision of the High Court of Judicature at Allahabad in the case of PCIT v. Sapna Gupta [2022 SCC OnLine All 1294] which captures with precision the scope of the concerned provision and more significantly, the import of the phrase- "each assessment year" used in the language of Section 153D of the Act. The relevant paragraphs of the said decision are reproduced as under:-*

*"13. It was held therein that if an approval has been granted by the Approving Authority in a mechanical manner without application of mind then the very purpose of obtaining approval under Section 153D of the Act and mandate of the enactment by the legislature will be defeated. For granting*

*approval under Section 153D of the Act, the Approving Authority shall have to apply independent mind to the material on record for "each assessment year" in respect of "each assessee" separately. The words 'each assessment year' used in Section 153D and 153A have been considered to hold that effective and proper meaning has to be given so that underlying legislative intent as per scheme of assessment of Section 153A to 153D is fulfilled. It was held that the "approval" as contemplated under 153D of the Act, requires the approving authority, i.e. Joint Commissioner to verify the issues raised by the Assessing Officer in the draft assessment order and apply his mind to ascertain as to whether the required procedure has been followed by the Assessing Officer or not in framing the assessment. The approval, thus, cannot be a mere formality and, in any case, cannot be a mechanical exercise of power.*

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*19. The careful and conjoint reading of Section 153A(1) and Section 153D leave no room for doubt that approval with respect to "each assessment year" is to be obtained by the Assessing Officer on the draft assessment order before passing the assessment order under Section 153A."*

*[Emphasis supplied]*

*12. It is observed that the Court in the case of Sapna Gupta (supra) refused to interdict the order of the ITAT, which had held that the approval under Section 153D of the Act therein was granted without any independent application of mind. The Court took a view that the approving authority had wielded the power to accord approval mechanically, inasmuch as, it was humanly impossible for the said authority to have perused and appraised the records of 85 cases in a single day. It was explicitly held that the authority granting approval has to apply its mind for "each assessment year" for "each assessee" separately.*

*13. Reliance can also be placed upon the decision of the Orissa High Court in the case of Asst. CIT v. Serajuddin and Co. [2023 SCC OnLine Ori 992] to understand the exposition of law on the issue at hand. Paragraph no.22 of the said decision reads as under:-*

*"22. As rightly pointed out by learned counsel for the assessee there is not even a token mention of the draft orders having been perused by the Additional Commissioner of Income-tax. The letter simply grants an approval. In other words, even the bare minimum requirement of the approving*

*authority having to indicate what the thought process involved was is missing in the aforementioned approval order. While elaborate reasons need not be given, there has to be some indication that the approving authority has examined the draft orders and finds that it meets the requirement of the law. As explained in the above cases, the mere repeating of the words of the statute, or mere "rubber stamping" of the letter seeking sanction by using similar words like "seen" or "approved" will not satisfy the requirement of the law. This is where the Technical Manual of Office Procedure becomes important. Although, it was in the context of section 158BG of the Act, it would equally apply to section 153D of the Act. There are three or four requirements that are mandated therein, (i) the Assessing Officer should submit the draft assessment order "well in time". Here it was submitted just two days prior to the deadline thereby putting the approving authority under great pressure and not giving him sufficient time to apply his mind ; (ii) the final approval must be in writing ; (iii) the fact that approval has been obtained, should be mentioned in the body of the assessment order."*

*[Emphasis  
supplied]*

14. *During the course of arguments, learned counsel for the assessee apprised this Court that the Special Leave Petition preferred by the Revenue against the decision in the case of Serajuddin (supra), came to be dismissed by the Supreme Court vide order dated 28.11.2023 in SLP (C) Diary no. 44989/2023.*

15. *A similar view was taken by this Court in the case of Anuj Bansal (supra), whereby, it was reiterated that the exercise of powers under Section 153D cannot be done mechanically. Thus, the salient aspect which emerges from the abovementioned decisions is that grant of approval under Section 153D of the Act cannot be merely a ritualistic formality or rubber stamping by the authority, rather it must reflect an appropriate application of mind.*

16. *In the present case, the ITAT, while specifically noting that the approval was granted on the same day when the draft assessment orders were sent, has observed as under:-*

*"10. We have gone through the approval granted by the ld. Addl. CIT on 30.12.2018 u/s 153D of the Act which is enclosed at page 36 of the paper book of the assessee. The said letter clearly states that a letter dated 30.12.2018 was filed by the ld. AO before the ld. Addl. CIT seeking approval of draft assessment order u/s 153D of the Act. The ld. Addl. CIT has*

*accorded approval for the said draft assessment orders on the very same day i.e., on 30.12.2018 for seven assessment years in the case of the assessee and for seven assessment years in the case of Smt. Neetu Nayyar. It is also pertinent in this regard to refer to pages 68 and 69 of the paper book which contains information obtained by Smt. Neetu Nayyar from Central Public Information Officer who is none other than the ld. Addl. Commissioner of Income-tax, Central Range-S, New Delhi, under Right to Information Act, wherein, it reveals that the ld. Addl. CIT had granted approval for 43 cases on 30.12.2018 itself. This fact is not in dispute before us. Of these 43 cases, as evident from page 36 of the paper book which contains the approval u/s 153D, 14 cases pertained to the assessee herein and Smt. Neetu Nayyar. The remaining cases may belong to some other assessees, which information is not available before us. In any event, whether it is humanly possible for an approving authority like ld. Addl. CIT to grant judicious approval u/s 153D of the Act for 43 cases on a single day is the subject matter of dispute before us. Further, section 153D provides that approval has to be granted for each of the assessment year whereas, in the instant case, the ld. Addl. CIT has granted a single approval for all assessment years put together."*

*17. Notably, the order of approval dated 30.12.2020 which was produced before us by the learned counsel for the assessee clearly signifies that a single approval has been granted for AYs 2011-12 to 2017-18 in the case of the assessee. The said order also fails to make any mention of the fact that the draft assessment orders were perused at all, much less perusal of the same with an independent application of mind. Also, we cannot lose sight of the fact that in the instant case, the concerned authority has granted approval for 43 cases in a single day which is evident from the findings of the ITAT, succinctly encapsulated in the order extracted above."*

14. Similarly, the Hon'ble Orissa High Court in the case of **ACIT vs Serajuddin & Co. 454 ITR 312 (Orissa)** had an occasion to examine substantial question of law on the propriety of approval granted under s. 153D of the Act. The Hon'ble Orissa High Court made wide-ranging observations towards the manner and legality of approval under s. 153D of the Act. The Hon'ble High Court inter-

alia observed that the approval under s. 153D of the Act being mandatory, while elaborate reasons need not be given, there has to be some indication that approving authority has examined draft orders and finds that it meets the requirement of law. The approving authority is expected to indicate his thought process while granting approval, held that it is not correct on the part of the Revenue to contend that the approval itself is not justifiable. Where the Court finds that the approval is granted mechanically, it would vitiate the assessment order itself. The Hon'ble High Court inter-alia observed that there is not even a token mention that draft order has been perused by the Ld. Addl. CIT. The approval letter simply grants approval. In other words, even the bare minimum requirement of approving authority having to indicate what thought process involved leading to the aforementioned approval has not been provided. As explained, the mere repeating of words of the Statue or mere rubber stamping of the communication seeking sanction by using similar words like 'approval' will not, by itself, meet the requirement of law. The Hon'ble Court made reference to manual issued by the CBDT in the context of erstwhile section 158BG of the Act and observed that such manual serves as a guideline to the AOs. Since it was issued by CBDT, the powers of issuing such guidelines can be traced to section 119 of the Act. The Hon'ble High Court also held that non-compliance of requirement of section 153D of the Act is not a mere procedural irregularity and lapse committed by Revenue may vitiate the assessment order. The SLP filed against the aforesaid judgement in the case of ACIT vs Serajuddin & Co. was dismissed as reported in **(2024) 163 taxmann.com 118 (SC)**.

15. The ratio of judgement delivered in the case of ACIT vs Serajuddin & Co., Orrisa and in PCIT vs Anuj Bansal in ITA No.368/2023 (Delhi High Court) has held in chorus that the approval granted under s. 153D of the Act, if granted mechanically, will vitiate the assessment order itself.

16. Recently the hon'ble **Third member** in the case of **Dheeraj Chaudhary Vs. ACIT in ITA Nos. 6158 to 6160/Del/2018** after considering all the judgements relied upon by the ld. CIT DR and further after detailed analyzing the provisions of section 153D, power and independence of assessing authority and the CBDT manual referred by the revenue has held that the common approval granted for various year and for various assessee without making any reference to the material seen is mechanical approval and cannot sustained in the eyes of law. A reference is also made the CBDT manual issued in respect to the procedure to be followed in this regard. The relevant observations of the Hon'ble Third Member are as under:

*22. I noted that the common thread discussed by Hon'ble Orissa High Court in the case of Serajuddin & Co. (supra), by Hon'ble Delhi High Court in the case of Anuj Bansal (supra) and by Hon'ble Allahabad High Court in the case of Sapna Gupta (supra) is that the requirement of previous approval of assessment by the Additional CIT/Joint CIT in terms of provisions of Section 153D of the Act being an inbuilt protection against any arbitrary or unjust exercise of power by the Assessing Officer, casts a very heavy duty on the said high ranking authority to see to it that the requirement of the previous approval, envisaged in the Section is not turned into an empty formality. Needless to say that before granting approval, the Additional CIT/Joint CIT, as the case may be, must have before him the material on the basis whereof an opinion in this behalf has been formed by the Assessing Officer and the approval must reflect the application of mind to the facts of the case. The CBDT itself recognized*

*the importance of this provision and the above laid down principle and hence issued Manual of Office Procedure in February, 2023 in exercise of powers under Section 119 of the Act. Vide Para 9 of Chapter 3 of Volume-II (Technical), a clear procedure is devised i.e., how an approval is to be granted for draft assessment for passing of assessment order in search cases. According to the Manual, the Assessing Officer should submit the draft assessment order for such approval well in time along with docketed in the order sheet, a copy of the draft assessment order, covering letter filed in the relevant miscellaneous records folder. Even, it is noted that due opportunity of being heard should be given to the assessee by the supervisory officer giving approval to the proposed block assessment, at least one month before the time barring date. It is further noted that once such approval is granted, it must be in writing and filed in the relevant folder indicating above after making due entry in the order sheet. This is the mandate provided in the office manual of the Department. **In view of above, I am of the view that the 'approval', as mandated u/s 153D of the Act, signifies a product of human thoughts based on the given set of facts and interpretation of the applicable law. It provides equality in treatment and thus prevents bias, prejudice and arbitrariness. It also prevents and avoids inconsistent and divergent views. The power of approval to the specified authority i.e., Superior authority has been envisaged with the objectives that no illegality or biasness, to either of the sides i.e., the assessee or the Revenue, remains. 23. In the present case before me, the above procedure is not at all followed as is evident from the proposal sent by the Assessing Officer as reproduced in Paragraph 10. It means that the approval granted is mechanical in manner and without application of mind by the approving authority i.e., by the Additional CIT.***

17. Such mechanical approval cannot be sustainable in law in the light of judicial dicta available. The approval memo is totally silent on the issues involved and has granted omnibus approval without any thoughtful process being discernible. A single approval u/s 153D has been accorded in respect of six Assessment Years through single order. There is no other material to show involvement of the superior authority in the course of assessment proceedings. Thus applying the ratio of judgements delivered as noted above, the assessment order based on ritualistic approval

stands vitiated and thus quashed by allowing cross objection No. 9 taken by the Assessee.

18. Since we have already quashed the assessment order by allowing the cross objection No. 9 taken by the assessee thus other cross objection taken by assessee and the grounds of appeal taken by the revenue in its appeal become academic and thus not adjudicated.

19. In the result, the cross objection filed by the assessee is allowed and appeal of the revenue is dismissed.

**ITA Nos.452 & 453/Del/2024 [AYs 2017-18 & 2019-20]**  
**& C.O.No.165/Del/2023 [In ITA No.3288/Del/2023]**  
**[Assessment Year-2016-17]**

20. Before us, both the parties have agreed that the facts involved are common in all the assessment years. In these years also, assessee has filed appeals as well cross objection challenging the validity of assessment order passed u/s 143(3) r.w.s. 153C in light of provisions of section 153D of the Act which issue has been decided in favour of the assessee in CO N. 164/Del/2023 for AY 2015-16, hereinabove. As admitted by both the parties, the facts are identical, and the approval was granted by Adl. CIT for all these assessment years also by a common order vide letter No. Adl. CIT/C.R.-4//Approval-153D/2021-22/230 dated 25.06.2021 for AYrs. 2014-15 to 2019-20, as reproduced above, thus following our aforesaid observations, the appeals filed for AY 2017-18 & 2019-20 and Cross objection for AY 2016-17 taken by the assessee are allowed.

21. In the final result, all the appeals and COs filed by the assessee are allowed and all the appeals of the revenue are dismissed.

Order pronounced in the open Court on 17.10.2025.

**Sd/-**

**(CHALLA NAGENDRA PRASAD)  
JUDICIAL MEMBER**

**Sd/-**

**(MANISH AGARWAL)  
ACCOUNTANT MEMBER**

**Dated : 17.10.2025**

**\*Amit Kumar, Sr.P.S.\***

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ITAT, NEW DELHI